



**COLORADO**

Department of Health Care  
Policy & Financing

## **Home and Community Based Services Waiver Amendment for the Brain Injury, Community Mental Health Supports, Elderly, Blind and Disabled, and Spinal Cord Injury Waivers**

March 24, 2016

The U.S. Federal Government recently amended the Fair Labor Standards Act (FLSA) to allow home care workers to be eligible for minimum wage and overtime requirements. FLSA requires compensation for attendants whose work time exceeds 12 hours in a single day or 40 hours in a week. CDASS participants may not be aware they are employing an attendant who is working for other CDASS participants which could negatively affect their allocations by unforeseen travel time and overtime costs.

To address these issues, the Department worked with CDASS members, family members, attendants, providers, and others to develop a plan to implement the Fair Labor Standards Act (FLSA) into CDASS.

This collaborative effort resulted in the decision to remove the Agency with Choice model from CDASS and to require all CDASS members to use the Fiscal Employer Agent (F/EA) model. The F/EA model allows the client or authorized representative to be the sole employer of the CDASS attendant. This way overtime and travel costs would be predictable and managed within the client's individualized budget for services. Being able to accurately budget for services is essential to be successful in a consumer-directed service option.

In order to make this change official, the Department of Health Care Policy and Financing is required to submit an HCBS Waiver amendment to our Federal partners for approval. As part of this process, the Department is federally required to provide a 30-day public notice and comment period, as well as at least one additional opportunity for public comment.

Please review the information below for your opportunity to participate in this process if you choose.



## Summary of Waiver Amendment

### Consumer Directed Attendant Support Services (CDASS)

The Agency with Choice (AwC) Financial Management Service model is being removed from the Brain Injury, Community Mental Health Supports, Elderly, Blind and Disabled and Spinal Cord Injury Waivers. Consumer Directed Attendant Support Services (CDASS) will continue operations utilizing the Fiscal Employer Agent (F/EA) Financial Management Service model. Clients utilizing CDASS through the AwC model will be required to transition to the F/EA model. This transition will be facilitated by the Financial Management Services vendor the client has selected and supported by the CDASS training and operations vendor.

### GUIDELINES FOR SUBMITTING COMMENTS

- The Department will have this draft of the BI, CMHS and EBD Waiver Amendments open for public comment from 03/24/2016 to 04/30/2016. The SCI Waiver Amendment is open for public comment from 03/31/2016 to 4/30/2016. The amendments will be posted on the Department's website here: [www.colorado.gov/hcpf/hcbs-waiver-transition](http://www.colorado.gov/hcpf/hcbs-waiver-transition)
- Individuals may request draft Waiver Amendments materials via email at [LTSS.PublicComment@state.co.us](mailto:LTSS.PublicComment@state.co.us)
- Comments regarding the draft Waiver Amendments can be emailed directly to [LTSS.PublicComment@state.co.us](mailto:LTSS.PublicComment@state.co.us)
- Comments can also be addressed to the following:  
ATTN: Rhyann Lubitz  
1570 Grant Street  
Denver, CO 80203  
303-866-2050
- All comments will be maintained and responses provided in a regularly updated listening log kept on the Department's website found [www.colorado.gov/hcpf/hcbs-waiver-transition](http://www.colorado.gov/hcpf/hcbs-waiver-transition)

The Department commits to incorporating comments, concerns, and suggestions into the proposed waiver amendment plan when possible.

